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HOUSE BILL 30

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO LAW ENFORCEMENT; ENACTING THE LAW ENFORCEMENT SAFE PURSUIT ACT; REQUIRING TRAINING AND POLICY FORMULATION REGARDING HIGH SPEED PURSUITS; CREATING THE CRIME OF AGGRAVATED FLEEING A LAW ENFORCEMENT OFFICER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 4 of this act may be cited as the "Law Enforcement Safe Pursuit Act".

Section 2. [NEW MATERIAL] DEFINITION. -- As used in the Law Enforcement Safe Pursuit Act, "high speed pursuit" means an attempt by a law enforcement officer in an authorized emergency vehicle to apprehend an occupant of a motor vehicle, the driver of which is actively attempting to avoid apprehension by exceeding the speed limit.

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1 Section 3. [NEW MATERIAL] POLICE TRAINING. --

2 A. No later than December 31, 2004, the New Mexico
3 law enforcement academy board shall develop and incorporate
4 into the basic law enforcement training required pursuant to
5 the Law Enforcement Training Act a course of instruction of at
6 least sixteen hours concerning the safe initiation and conduct
7 of high speed pursuits.

8 B. The course of instruction shall emphasize the
9 importance of protecting the public at all times and the need
10 to balance the known offense and risk posed by a fleeing
11 suspect against the danger to law enforcement officers and
12 other people by initiating a high speed pursuit.

13 C. The course of instruction shall include adequate
14 consideration of each of the following subjects:

- 15 (1) when to initiate a high speed pursuit;
- 16 (2) when to terminate a high speed pursuit;
- 17 (3) evaluating risks due to conditions of the
18 vehicle, driver, roadway, weather and traffic during a high
19 speed pursuit;
- 20 (4) evaluating dangers to uninvolved motorists
21 and bystanders during a high speed pursuit;
- 22 (5) the number of law enforcement units
23 permitted to participate in the high speed pursuit;
- 24 (6) the responsibilities of primary, secondary
25 and supervisory law enforcement units during a high speed

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1 pursuit;

2 (7) proper communication and coordination
3 procedures when a high speed pursuit enters another law
4 enforcement agency's jurisdiction, including a tribal
5 jurisdiction;

6 (8) driving tactics during a high speed
7 pursuit;

8 (9) communications during a high speed
9 pursuit;

10 (10) capture of suspects following a high
11 speed pursuit;

12 (11) supervisory responsibilities during a
13 high speed pursuit;

14 (12) use of blocking, ramming, boxing and
15 roadblocks as high speed pursuit tactics;

16 (13) use of alternative methods and
17 technologies for apprehending suspects during a high speed
18 pursuit; and

19 (14) preparing a report and evaluation and
20 analysis of a high speed pursuit after it has concluded.

21 D. The New Mexico law enforcement academy board
22 shall develop the program of instruction, learning and
23 performance objectives and standards for training in
24 conjunction with appropriate groups and individuals that have
25 an interest in and expertise regarding high speed pursuits,

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1 including law enforcement agencies, law enforcement academy
2 instructors, experts on the subject and members of the public.

3 E. In-service law enforcement training, as required
4 pursuant to Section 29-7-7.1 NMSA 1978, shall include at least
5 eight hours of instruction that conform with the requirements
6 set forth in Subsection C of this section.

7 F. Each certified regional law enforcement training
8 facility shall incorporate into its basic law enforcement
9 training and in-service law enforcement training a course of
10 training in the safe initiation and conduct of high speed
11 pursuits that is comparable to or exceeds the standards of the
12 course of instruction developed by the New Mexico law
13 enforcement academy board.

14 Section 4. [NEW MATERIAL] PURSUIT POLICIES. --

15 A. The chief law enforcement officer of every
16 state, county and municipal law enforcement agency shall
17 establish and enforce a written policy governing the conduct of
18 law enforcement officers employed by the agency who are
19 involved in high speed pursuits. A copy of the written policy
20 shall be submitted to the director of the New Mexico law
21 enforcement academy and the traffic safety bureau of the state
22 highway and transportation department.

23 B. The policy shall specify, at a minimum:

24 (1) the conditions under which a law
25 enforcement officer may engage in a high speed pursuit and the

1 conditions when the officer shall terminate a high speed
2 pursuit;

3 (2) measures other than a high speed pursuit
4 that may be employed to apprehend a suspect in a fleeing motor
5 vehicle or to impede the movement of the vehicle;

6 (3) the coordination and responsibility,
7 including control over the high speed pursuit, of supervisory
8 personnel and the law enforcement officers engaged in the
9 pursuit; and

10 (4) the procedures to be followed to notify
11 and coordinate high speed pursuits with law enforcement
12 agencies in other jurisdictions, including tribal
13 jurisdictions.

14 C. The written policy shall, at a minimum, require
15 that:

16 (1) a law enforcement officer may initiate a
17 high speed pursuit to apprehend a suspect who the officer has
18 reasonable grounds to believe poses a clear and immediate
19 threat of death or serious injury to others or who the officer
20 has probable cause to believe poses a clear and immediate
21 threat to the safety of others that is ongoing and that existed
22 prior to the high speed pursuit;

23 (2) a law enforcement officer shall not
24 initiate or continue a high speed pursuit when the immediate
25 danger to the officer and the public created by the high speed

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1 pursuit exceeds the immediate danger to the public if the
2 occupants of the motor vehicle being pursued remain at large;

3 (3) when deciding whether to initiate or
4 continue a high speed pursuit, the following factors, at a
5 minimum, shall be taken into consideration:

6 (a) the seriousness of the offense for
7 which the high speed pursuit was initiated;

8 (b) whether a suspect poses a clear and
9 immediate threat of death or serious injury to others;

10 (c) road, weather, environmental and
11 vehicle conditions;

12 (d) the amount of motor vehicle and
13 pedestrian traffic; and

14 (e) knowledge of the suspect's identity,
15 possible destination and previous activities that may make
16 apprehension at a later time feasible; and

17 (4) no more than two law enforcement vehicles
18 shall become actively involved in a high speed pursuit, unless
19 specifically authorized by a supervisor.

20 Section 5. A new section of the Criminal Code is enacted
21 to read:

22 " [NEW MATERIAL] AGGRAVATED FLEEING A LAW ENFORCEMENT
23 OFFICER. --

24 A. Aggravated fleeing a law enforcement officer
25 consists of a person willfully and carelessly driving his

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1 vehicle in a manner that endangers the life of another person
2 after being given a visual or audible signal to stop, whether
3 by hand, voice, emergency light, flashing light, siren or other
4 signal, by a uniformed law enforcement officer in an
5 appropriately marked law enforcement vehicle in pursuit in
6 accordance with the provisions of the Law Enforcement Safe
7 Pursuit Act.

8 B. Whoever commits aggravated fleeing a law
9 enforcement officer is guilty of a fourth degree felony. "

10 Section 6. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 2003.